

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA, :
: 18-CR-00224 (ALC)
:
v. : March 28, 2018
:
ALI SADR HASHEMI NEJAD, : 500 Pearl Street
: New York, New York
Defendant. :
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TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT
BEFORE THE HONORABLE BARBARA C. MOSES
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: UNITED STATES ATTORNEY
BY: ANDREW JAMES DeFILIPPIS, ESQ.
MATTHEW JOSEPH LAROCHE, ESQ.
ASSISTANT U.S. ATTORNEYS
1 Saint Andrews Plaza
New York, New York 10007

For the Defendant: ANDREW BAUER, ESQ.
TAL RACHEL MACHNES, ESQ.
Arnold & Porter Kaye Scholer LLP
250 West 55th Street
New York, New York 10117

Court Transcriber: SHARI RIEMER, CET-805
TypeWrite Word Processing Service
211 N. Milton Road
Saratoga Springs, New York 12866

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1 THE CLERK: USA v. Sadr. Counsel, state your name
2 for the record.

3 MR. LAROCHE: Good afternoon, Your Honor. Matt
4 Laroche, Andrew DeFilippis and Garret Lynch [Ph.] for the
5 Government. And with us is Mike Gerbanowitz [Ph.] from the
6 Federal Bureau of Investigation.

7 THE COURT: Welcome. Be seated.

8 MR. BAUER: Hello, Your Honor. Andrew Bauer and Tal
9 Machnes and we are here with our client Ali Sadr.

10 THE COURT: Welcome. Be seated. And your last name
11 is Sadr?

12 MR. BAUER: It's actually Sadr. Sorry.

13 THE COURT: Sadr. All right. But it's -- but
14 that's the right last name, S-A-D-R, correct? All right. I
15 am Magistrate Judge Moses. You speak and understand English,
16 correct?

17 MR. SADR: [inaudible].

18 THE COURT: All right. May I have the date and time
19 of the arrest, please?

20 MR. LAROCHE: Yes, Your Honor. The defendant was
21 arrested in the Eastern District of Virginia on March 19th and
22 was presented in that district the next day. He was then
23 transferred to this district and arrived last night.

24 THE COURT: All right. And are we arraigning this
25 afternoon or just doing bail?

1 MR. LAROCHE: It's been referred for both
2 presentment and arraignment, Your Honor.

3 THE COURT: By Judge Carter?

4 MR. LAROCHE: That's correct.

5 THE COURT: All right. Well we're going to go
6 through a number of items this evening, Mr. Sadr. Among them
7 I will advise you of certain rights that you have. This may
8 be a bit repetitive. You've heard some of the same items in
9 Virginia -- inform you of the charges against you, consider
10 whether counsel should be appointed for you and decide, under
11 what conditions, if any, you should be released pending trial.
12 You will also have the opportunity to plead guilty or not
13 guilty to the charges.

14 I'm going to begin with some of your constitutional
15 rights. You have the right to remain silent. You are not
16 required to make any statements. Even if you've already made
17 statements to the authorities, you do not need to make any
18 further statements. Any statements that you do make can be
19 used against you.

20 You have the right to be released; either
21 conditionally or unconditionally pending trial, unless I
22 determine that there are no conditions that will reasonably
23 assure your presence in court and the safety of the community.

24 If you are a foreign national, you have the right to
25 request that a consular officer from your country of origin be

1 notified of you arrest. In some cases, a treaty or other
2 agreement may require the U.S. government to give that notice
3 whether you request it or not. Is there such an agreement,
4 counsel, with the government of Iran?

5 MR. LAROCHE: Not with Iran, Your Honor, but St.
6 Kitts -- St. Kitts has been notified.

7 THE COURT: St. Kitts has been notified and you may
8 request that Iran be notified as well but that is not
9 automatic. You have the right to be represented by an
10 attorney during all court proceedings, including this one and
11 during all questioning by the authorities. If you cannot
12 afford an attorney, I will appoint one today to represent you,
13 but I understand Mr. Bauer, you are retained and there is no
14 such application; is that correct?

15 MR. BAUER: Yes, Your Honor.

16 THE COURT: All right. I have been provided with a
17 copy of the indictment in your case, sir. That is the
18 document formally containing the charges against you. I note
19 that in Count 1, you are charged with Conspiracy to Defraud
20 the United States in violation of 18 USC, section 371.
21 Specifically, to defraud the Office of Foreign Assets Control.

22 I see that in Count 2, you are charged with
23 conspiracy to violate the International Emergency Economic
24 Powers Act, in violation of 50 USC section 1705, and Title 31
25 of the Code of Federal Regulations, sections 560.203, 560.204,

1 and 560.205. In Count 3, I see that you were charged with
2 bank fraud. That's a violation of 18 USC sections 1344 and 2.
3 In Count 4, you are charged with conspiracy to commit bank
4 fraud in violation of 18 USC section 1344. In Count 5, you
5 are charged with money laundering, which is a violation of 18
6 USC section 1956(a)(2)(A) and section 2. And in Count 6, you
7 are charged with a conspiracy to commit money laundering in
8 violation of 18 USC section 1956(h). I think that is the
9 entire list.

10 MR. LAROCHE: That's correct, Your Honor.

11 THE COURT: Counsel, have you had an opportunity to
12 review the indictment and to go over it with your client, and
13 do you waive its public reading?

14 MR. BAUER: We have that opportunity, Your Honor,
15 and we do waive the public reading.

16 THE COURT: And is your client prepared to enter a
17 plea at this time?

18 MR. BAUER: Yes.

19 THE COURT: What is your plea?

20 MR. SADR: Not guilty, Your Honor.

21 THE COURT: A plea of not guilty will be entered and
22 the record will reflect that the defendant has been arraigned.
23 Has Judge Carter set a conference date?

24 MR. LAROCHE: Yes, Your Honor. The conference --
25 next conference is scheduled for April 9th, at 3:00 p.m.

1 THE COURT: Is there an application to exclude time?

2 MR. LAROCHE: Yes, Your Honor. The Government moves
3 to exclude time until the next conference in the interest of
4 justice under the speedy trial act. And the basis for the
5 exclusion is so the Government can begin producing discovery
6 so defense counsel can begin reviewing that discovery and so
7 the parties can begin discussing potential dispositions of
8 this matter.

9 THE COURT: Any objection?

10 MR. BAUER: No, Your Honor.

11 THE COURT: At the request of the Government, with
12 the consent of the defendant, I will exclude time through
13 April the 9th, 2018. I find that the ends of justice served
14 by taking such action outweigh the interest of the public and
15 the defendant in a speedy trial.

16 Let us turn to the question of conditions of release
17 or detention as the case may be. Do I understand that the
18 Government seeks detention?

19 MR. LAROCHE: That's correct, Your Honor.

20 THE COURT: Do I understand that the defendant seeks
21 release?

22 MR. BAUER: Yes, Your Honor.

23 THE COURT: All right. So Mr. Sadr, as you may
24 know, I am required, under the law to release you either with
25 or without conditions imposed unless I determine that there

1 are no conditions that will reasonably assure your appearance
2 in court as required and the safety of the community. In this
3 case, the Government has asked that you be detained without
4 bail. I am therefore required to determine whether there are
5 any conditions or combination of conditions that will protect
6 the safety of the community and reasonably assure your
7 appearance at trial. This is not a presumption case; is that
8 correct?

9 MR. LAROCHE: That's correct, Your Honor.

10 THE COURT: All right. The Government ultimately
11 bears the burden here of establishing either by clear and
12 convincing evidence that you are a danger to the community,
13 economic or otherwise, or alternatively by establishing by a
14 preponderance of the evidence that you are a flight risk.
15 Because the Government has the burden of proof on both of
16 these prongs, I will hear from the Government first.

17 MR. LAROCHE: Thank you, Your Honor. At the outset,
18 I would note that the defendant -- we have confirmed -- has an
19 immigration detainer. So today's proceeding, in some ways is
20 a bit leu in that even if the Court does grant him a bail
21 package, he would be put into immigration custody. I know
22 that the pretrial services report indicates that there is no
23 detainer, but we have confirmed that there is in fact such a
24 detainer. But put it --

25 THE COURT: Well the pretrial services report -- if

1 I recall correctly -- indicated that there was, I think what
2 they called a warrant for deportation. I'm not sure what that
3 is.

4 MR. LAROCHE: That's correct. Yeah, that's correct,
5 Your Honor. And it's our understanding that there is now a
6 detainer in place as well.

7 THE COURT: And the final order of removal; is that
8 correct?

9 MR. LAROCHE: I'm not sure if that is the case, Your
10 Honor. We're trying to get more information from ICE
11 authorities regarding the immigration status and the detainer
12 itself. I'm simply just letting the Court know that that
13 detainer is now in place which is not the information that was
14 in the pretrial --

15 THE COURT: Right.

16 MR. LAROCHE: -- services.

17 THE COURT: So your understanding is, regardless
18 of any conditions I set, if the marshals were to let him go,
19 ICE would pick him up?

20 MR. LAROCHE: That's my understanding, Your Honor,
21 yes. That's correct.

22 THE COURT: All right. What else would you like to
23 tell me?

24 MR. LAROCHE: So putting aside the detainer, the
25 defendant is a substantial flight risk. He is a well-

1 connected, wealthy, sophisticated businessman -- an
2 international businessman with immense wealth and ties with
3 countries around the world. As alleged, he is alleged to have
4 aided the government of Iran in the export of over 100 million
5 dollars in services for Iran's benefit. And because of his
6 conduct, he faces very serious charges with a maximum penalty
7 together of about 125 years in prison. So we do believe that
8 he is --

9 THE COURT: What would the guidelines look like?

10 MR. LAROCHE: I think the guidelines, based on the
11 loss amount, would be decades in prison, Your Honor. It would
12 be a very long guidelines which would be driven by the loss
13 amount.

14 With that said, I think each of the factors in this
15 case that go -- the Court must consider in determining whether
16 bail was appropriate, Counsel in favor of detention in this
17 case. First, just to start with the nature and circumstances
18 of the offense. Since 1979, president after president has
19 reiterated that the government of Iran presents an unusual
20 threat to the government of the United States. And because of
21 that, they put in sanctions that prevent the export of
22 services to Iran.

23 The defendant, fully knowing that those sanctions
24 were in place, engaged in a years' long scheme to export over
25 150 million dollars worth of services for the benefit of Iran.

1 And the way he did that, was by creating a series of shell
2 companies to funnel money from Venezuela through the shell
3 companies for Iran's benefit. And he --

4 THE COURT: Money from Venezuela?

5 MR. LAROCHE: So the underlying activity in this
6 case was a contract between -- an understanding between the
7 governments of Venezuela and Iran to build a housing project
8 in Venezuela. The government of Venezuela asked Iran to do
9 the construction for that project. The construction was given
10 to Stratus Group [Ph.] in Iran. Stratus Group is a company
11 that is owned and controlled by the defendant's family.
12 Stratus Group is one of the wealthiest corporations in Iran
13 and it includes not just construction companies, but banks
14 within the Stratus Group is the largest private bank in Iran.
15 And that company was founded by the defendant's father.

16 THE COURT: All right. I'm waiting to hear where we
17 are exporting goods or services from the United States.

18 MR. LAROCHE: Sure. So Iran wanted to get paid in
19 dollars, Your Honor. And they know that -- they knew they
20 couldn't do that because of the sanction. So what the
21 defendant did, was set up two shell companies, one in
22 Switzerland, and one in Turkey. And he told Venezuela to pay
23 those shell companies through correspondent banks in New York
24 City. So they funneled payments from Venezuela, which were
25 actually -- their funds were located in Portugal -- those

1 funds were --

2 THE COURT: The Venezuelan government's funds were
3 located in Portugal?

4 MR. LAROCHE: Yeah. Pedabeso [Ph.] was the state
5 owned corporation that was essentially paying for the project.
6 And those funds were held in banks in Portugal. The way the
7 transactions worked was Venezuela essentially wired those
8 funds through correspondent banks that then went to bank
9 accounts for the two front companies that Mr. Sadr himself,
10 had set up. So the money was funneled from Portugal, through
11 New York correspondent banks, then back to Iranian companies,
12 which is a clear violation of the export laws.

13 THE COURT: I'm a little confused. You're saying
14 that Venezuelan money went to Iran?

15 MR. LAROCHE: In dollars, Your Honor. In U.S.
16 dollars.

17 THE COURT: Via New York?

18 MR. LAROCHE: That's correct, Your Honor.

19 THE COURT: Where it got turned into dollars?

20 MR. LAROCHE: No, no, no. It was U.S. dollars that
21 were transferred --

22 THE COURT: It was already in dollars?

23 MR. LAROCHE: That's correct, Your Honor. And it
24 was transferred through New York correspondent banks to the
25 front companies in Switzerland or Turkey, which is a clear

1 violation of the export of services. So the export of
2 services can be a bank transaction from a New York
3 correspondent bank to a company --

4 THE COURT: So had the money gone direct from
5 Venezuela or Portugal, for that matter, to Iran we wouldn't be
6 here?

7 MR. LAROCHE: Potentially, Your Honor. We wouldn't.
8 But they also wouldn't have been able to do the transaction in
9 dollars.

10 THE COURT: Okay.

11 MR. LAROCHE: And again, they want to do the
12 transaction in dollars because the dollar is a more stable way
13 to do business. And that's the whole point of the sanctions,
14 is that the Iranian government --

15 THE COURT: To deprive Iran of dollars?

16 MR. LAROCHE: Absolutely, Your Honor. Because the
17 Iranian government is supporting terrorist organizations and
18 president after president has determined that they're a threat
19 to the United States. And so those sanctions are in place to
20 prevent -- to punish them for that type of activity and to
21 prevent them from gaining access to the international
22 financial markets. And that's exactly what the defendant did,
23 through this scheme.

24 And so this was a years' long scheme, Your Honor,
25 that in total was about 115 million dollars in U.S. dollars

1 that went to the benefit of Iranians and Iranian companies.

2 So the nature and circumstances of this offense --

3 THE COURT: I mean dollars presumably didn't go
4 straight from New York banks to Iran? They must have gone
5 somewhere else in between?

6 MR. LAROCHE: That's correct, Your Honor. They went
7 to two front companies. So Stratus Turkey and a company
8 called Clarity. Clarity was --

9 THE COURT: All right.

10 MR. LAROCHE: -- set up in Switzerland.

11 THE COURT: And the Government's allegation is that
12 both of these companies were the defendant and his family,
13 correct?

14 MR. LAROCHE: That's correct, Your Honor. And the
15 email correspondence on this is very, very clear that the
16 defendant is saying that these companies are controlled by him
17 and his family. And in fact, Clarity was created -- was
18 incorporated based on the defendant's -- I believe his -- he
19 incorporated himself using his own St. Kitt's passport. So
20 there's really no dispute that the defendant, himself, set up
21 these companies. There is no dispute -- at least from the
22 Government's perspective -- that these companies received a
23 total of 115 million dollars worth of U.S. dollar transactions
24 and that these transactions were in clear violations of the
25 sanctions.

1 THE COURT: And the defendant did this for a cut or
2 for some other reason?

3 MR. LAROCHE: Well it's the --

4 THE COURT: In the Government's view?

5 MR. LAROCHE: In the Government's view, it's the
6 defendant's companies. I mean, he is -- the Stratus Group,
7 the group that got this construction contract from the
8 beginning in Iran, is the defendant's family's company. It's
9 his -- his father's company that he was working for and
10 clearly the defendant -- the inference can be drawn that he
11 was getting a financial -- his family was getting benefits
12 from this from having such a huge contract. And this
13 contract, in total, Your Honor, was actually for close to half
14 a billion dollars. And 115 million dollars' worth had
15 actually gone through the correspondent banks in the U.S. to
16 the Iranian companies. So that's the nature of the offense.

17 With respect to the weight of the evidence, in the
18 Government's view, it's overwhelming. And that's included in
19 numerous email search warrants including on the defendant's
20 email accounts where he both acknowledges that he understands
21 sanctions, acknowledges that these transactions can't go
22 directly back to Iran, where he talks about hiding the Iranian
23 control for these front companies.

24 These are very clear emails. Some of which are laid
25 out in the indictment that the defendant just acknowledges

1 that he understands that he's doing this to avoid the
2 sanctions. So we think the weight of the evidence here is
3 very strong.

4 And I think the nature of the offense is not only --
5 it's very serious, there's a lot of crime -- but also that the
6 shell companies and the shell games the defendant played, are
7 another reason to really not have faith that he's going to
8 stick in the United States. And it gets to why the history
9 and characteristics of this defendant really reinforce that he
10 would flee if he had the opportunity to do so.

11 On that front, I think it's really important to
12 focus on the pretrial services report. There are significant
13 misrepresentations and omissions in that report.

14 THE COURT: Including, for example, his immigration
15 status?

16 MR. LAROCHE: Putting aside his immigration status,
17 Your Honor, the defendant saying that he has resided in the
18 United States, I think since 2000 and specifically in
19 Washington since 2013, is completely inconsistent with the
20 travel records. Just to give an example, he came in the
21 country on March 18th, last week, or two weeks ago, from the
22 United Arab Imeritz [Ph.]. He was staying for one night. He
23 was flying out the next evening going to London.

24 Before that, it's our understanding, based on our
25 records, that he hadn't been in the United States for six

1 months. And before that, throughout this case, it was our
2 understanding that he was traveling across the world from the
3 UAE. There's talk of him going back and forth to Iran. He
4 simply does not stay in Washington. He doesn't.

5 THE COURT: When was he last in Washington before
6 March of 2018, or last in the United States?

7 MR. LAROCHE: So our travel records show that it had
8 been six months -- since October 2017 -- since he had last
9 been here. In October 2017, he only stayed for about a week.
10 So the idea that he's been residing --

11 THE COURT: Just out of curiosity, if he is flying
12 into and out of the United States, regardless of how
13 frequently and he is a non citizen with some form of
14 deportation order against him, why isn't he being picked up at
15 the airport?

16 MR. LAROCHE: That's a good question, Your Honor. I
17 -- we are trying to gain more information from ICE on that,
18 Your Honor. We just don't have a lot of visibility as to why
19 he wasn't picked up before that. But we're trying to get more
20 information. We understand that as of today, a detainer is in
21 place. So --

22 THE COURT: All right.

23 MR. LAROCHE: And with respect to his travel, what
24 is troubling is he is -- our evidence shows that he has three
25 separate passports recently. He has an Iranian passport, he

1 has a St. Kitts passport. We also had evidence that he had a
2 Belarus passport that may have expired in 2017. But the
3 defendant has the ability to travel anywhere in the world.
4 And he has the motivation now, especially, to go to countries
5 that will not extradite him. He's traveled to Turkey, he's
6 traveled to the UAE, and he can travel to Iran. Three
7 countries where if he goes back to, we will never see him
8 again.

9 THE COURT: I don't think we have an extradition
10 treaty with St. Kitts and Nevis either. Am I wrong on that?

11 MR. LAROCHE: I don't believe --

12 MR. BAUER: We do, Your Honor.

13 THE COURT: There is a treaty?

14 MR. BAUER: Yes. We researched it, Your Honor.

15 MR. LAROCHE: That -- St. Kitts would be the least
16 of the worries of the government where he would go back to.
17 He would go back to Iran, he'd go back to Turkey, he'd go back
18 to the UAE. We are not getting him back from any of those
19 countries. And there's simply no set of conditions where we
20 believe that the defendant would stay here.

21 And more misrepresentations, Your Honor, that I
22 think, and these are some key ones, he's reported that -- he's
23 reported four companies to the Court. Altitude [Ph.], Pilatus
24 Bank, Sapine [Ph.], and Patashy, LLC [Ph.]. It's important
25 three of these, Altitude, Sapine, and Patashy -- it's

1 understandable that he reported these because we've
2 specifically identified properties in California that relate
3 to these companies. He also identified Pilatus Bank.

4 Also understandable that he identified Pilatus Bank
5 because it's been in the news lately since the defendant was
6 arrested. Pilatus Bank is in Malta. Pilatus Bank was seized
7 because it is -- the defendant is apparently under
8 investigation in Malta for substantial money laundering,
9 including that there is open source reporting on this as well
10 that several weeks ago, he apparently was in Malta and someone
11 approached him leaving the bank at approximately midnight with
12 several bags in his hand when he is under investigation for
13 money laundering. Then he gets arrested in this case and his
14 bank is immediately seized. So the --

15 THE COURT: All right. We're getting a little far
16 afield here.

17 MR. LAROCHE: Well, I think it shows that it's not
18 only the United States that has investigations into him, it's
19 also Malta. So he has more of a reason to go to a country
20 that is not going to extradite him and not going to be
21 cooperative.

22 But back to what he's reported. So he's reported
23 companies that are in open source, that have been all over the
24 news. And he's reported three companies that clearly the
25 Government has identified through the forfeiture property

1 that's already been identified.

2 But there are numerous other companies that we have
3 evidence that the defendant has controlled or owned including
4 companies that have been registered in Hong Kong, St. Kitts,
5 Austria, Switzerland, UAE. We have evidence that at least of
6 2017, here's a list of companies the defendant has either
7 owned or controlled; Brittstone [Ph.], Clarity, Spanrise
8 [Ph.], First Canton [Ph.], Alpese [Ph.], Per Swiss [Ph.],
9 Pilatus Holding, Pilatus Capital, Stratus Turkey. These are
10 all companies that have been in the defendant's name, does not
11 report them to pretrial services.

12 Bank accounts. He has bank accounts in UAE, Malta,
13 both personal and business accounts. He hasn't reported them.
14 Because just like the offense conduct, he engages in shell
15 games, not just when he's committing his crimes, but with the
16 Court because he wants to hide his access to assets, to
17 countries he would have the ability to go to. So ultimately,
18 Your Honor, we just don't think there are any set of
19 conditions that can assure the Court that the defendant is
20 going to show up for his court appearances. We believe he is
21 a substantial flight risk and will likely flee on the first
22 opportunity he has to do so.

23 THE COURT: I expect, although I never know quite
24 what to expect, but I suspect the defendant's counsel is about
25 to tell me that the defendant will pledge millions of dollars

1 worth of property and consent to electronic monitoring at his
2 own expense. Why would that not assuage some of your
3 concerns?

4 MR. LAROCHE: Because the defendant's family -- the
5 defendant -- the defendant's father is in our view, the
6 equivalent of Bill Gates, in Iran. This is a billion dollar
7 corporation. The fact that he might put up a couple million
8 dollars in cash or in property, which likely are going to be
9 subject to the forfeiture order anyways in this case, is not
10 much reassurance that the defendant still isn't going to flee.

11 THE COURT: All right. Let me hear from defense
12 counsel.

13 MR. BAUER: Thank you, Your Honor. Let me start
14 with the immigration detainer which, as you can tell, nobody,
15 I don't think the Government nor defense counsel knew about,
16 nor pretrial until just a few minutes before our hearing. And
17 the reason I want to start with it is because it's based on a
18 big mistake. And it's an easily verifiable mistake that I
19 expect will be cleared up in short order.

20 Let me give you just a little background of his
21 immigration status here in the U.S. He came here first in
22 2000 to study. He went to Cornell. Got a joint bachelor's
23 and master's. Graduated in 2005. In 2004 he applied for
24 asylum. Even before 2004, he applied for asylum. In 2004, it
25 was granted under the theory of political persecution. So

1 we'll get to it in a moment, but all these ties to the Iranian
2 government, that the Government is alleging, it falls --

3 THE COURT: So what is his immigration status?

4 MR. BAUER: So in 2009 that asylum status was
5 revoked. It was revoked based on his lawyer -- his
6 immigration lawyer turned out to had been not abiding by the
7 law and therefore every one of her client's immigration
8 status' were revoked. And so --

9 THE COURT: That isn't by any chance the immigration
10 lawyer who I saw earlier this afternoon in this courtroom, is
11 it?

12 MR. BAUER: I don't think so, Your Honor. I think -
13 -

14 THE COURT: I had an immigration lawyer presented to
15 me this afternoon on charges involving immigration fraud.

16 MR. BAUER: No, I think this was -- this was years
17 ago.

18 THE COURT: All right.

19 MR. BAUER: This was years ago, Your Honor. But --
20 so in May 2009, he was notified by ICE that his asylum status
21 had been revoked and that he had one year to remove himself or
22 defend against this status. He elected to remove himself,
23 Your Honor. So in March 2010, before that year time period
24 had expired, he removed himself. He left the United States.

25 He -- I missed an important part of it, which is

1 that in 2009 he married a U.S. citizen. So in November of
2 2012, he applied for and received a green card based in part
3 on his status as having been married to a U.S. citizen. He
4 got the green card. The same green card that he's been
5 traveling on for the last almost six years. The same green
6 card that every time he goes gallivanting across the globe, as
7 the Government says he has, he swipes it and he openly shows
8 the world that he's been traveling.

9 It -- the Government said that -- or told us that
10 the reason for the warrant was based on some sort of false
11 green card. How can that possibly be? It's incorrect. My
12 suspicion, Your Honor, is that there was a warrant of removal
13 -- it says it in the pretrial report from 2010. But that
14 warrant of removal was based on the asylum revocation from
15 2010. He self deported and then came back after he got a
16 green card. I think all that needs to happen, Your Honor, is
17 that that warrant needs to be lifted, and therefore the
18 detainer will be lifted.

19 Unfortunately, we haven't been able to research it
20 more, but that seems to be what happened. And it's the main
21 reason why we're continuing with the bail application even
22 though there's an immigration detainer because we think that
23 this can be lifted, hopefully within the next 24 hours.

24 I wanted to start with that, Your Honor, because it
25 sounds credible and it sounds credible because it's easily

1 verifiable. We'll very quickly get the immigration records
2 and we'll see that green card application and we'll see
3 whether this is just an administrative error by ICE or not. I
4 mean, his name is not a typical name here in the U.S. and who
5 knows if because based on a spelling error or some other
6 clerical error, that warrant had never been lifted. But
7 that's what I suspect has happened. The reason I want to
8 focus on that, Your Honor, is so much of what the Government -
9 -

10 THE COURT: How could he have possibly qualified for
11 asylum if his family is in secure economic status in Iran and
12 he travels back and forth frequently?

13 MR. BAUER: That's a good question, Your Honor.
14 Because his -- because contrary to what the Government is
15 telling you his family, and his father in particular is not
16 affiliated with the Iranian government. To the contrary, he
17 served time in jail in Iran as an opponent of the government.
18 His father, to this day, the Bill Gates of Iran, he is subject
19 to an order where he's not allowed to leave Iran for more than
20 10 days at a time or all of his assets that he has in Iran
21 will be seized by the Iranian government. He's not friendly
22 to the Iranian government.

23 And if you'd noticed, and I'll get to it in a
24 moment, the Government, repeatedly, when talking to you about
25 the nature of the offense, talked about how these shell

1 companies were for Iran's benefit and Iran wanted the money in
2 dollars. It's not Iran. It's -- they're private Iranian
3 citizens who wanted this money. So the Government just has it
4 wrong.

5 THE COURT: I don't think that makes it any less
6 unlawful if the Government's allegations are --

7 MR. BAUER: If the --

8 THE COURT: -- accurate.

9 MR. BAUER: -- allegations are correct, that is --
10 but what is relevant is the seriousness of the offense. And I
11 want to distinguish a case -- the allegations against a client
12 like mine, Your Honor, and other notable Iranian nationals who
13 have been prosecuted here in the SDNY. Most notably and most
14 publicly, Rezza Zarab [Ph.]. Rezza Zarab, he, unlike Mr.
15 Sadr, he -- what he was alleged to have been doing was
16 literally facilitating financial transactions in the United
17 States for the Iranian Revolutionary Guard Counsel, the IRGC.

18 THE COURT: Right. Now I think you're getting a
19 little far afield from our task this evening.

20 MR. BAUER: Respectfully, Your Honor, I disagree.
21 They're whole reason for the sanction -- the whole reason for
22 the -- like the seriousness of the offense -- the seriousness
23 of the offense -- it's one thing if you're benefitting
24 organizations that have been designated by our government as
25 terrorist organizations. They were benefitting private

1 citizens. They were building housing projects in Venezuela
2 for poor -- for poor Venezuelans. It's very different than
3 benefitting the IRGC. So I think it actually is very relevant
4 both in terms of the weight of the evidence, the seriousness
5 of the offense, the likely sentence, --

6 THE COURT: The private --

7 MR. BAUER: -- if he ever is convicted.

8 THE COURT: -- as well as public transactions are
9 prohibited by the sanctions, correct?

10 MR. BAUER: Your Honor. That's a different point.
11 But, yeah, I agree with you, Your Honor.

12 THE COURT: No. That's a key point.

13 MR. BAUER: But, Your Honor, I doubt that you
14 disagree that a defendant who is conducting transactions to
15 benefit terrorist organizations versus someone --

16 THE COURT: But that's not what he's charged with
17 here. He's charged with the economic crime of violating the
18 economic sanctions.

19 MR. BAUER: That's correct.

20 THE COURT: And I don't think it matters to the
21 nature of the current charges against him what his politics
22 are.

23 MR. BAUER: I think it -- it certainly matters what
24 his connections to the Iranian government are. But we can
25 agree to disagree on that, Your Honor.

1 Okay. So, Your Honor, let's just take a look at
2 some of the other -- some other points here that the
3 Government made. And I'll start also with those travel
4 documents. Again, it's going to be easily verifiable. They
5 just have it wrong. For some -- their records about my client
6 are just wrong. They said that he was in the UAE as of, I
7 think it was last week. He hasn't been there since 2016.
8 Easily verifiable.

9 THE COURT: Where was he --

10 MR. BAUER: He' hasn't been --

11 THE COURT: -- excuse me. Where was he last before
12 he reentered the United States.

13 MR. BAUER: He was in London, Your Honor. In
14 London, right now, he was -- they -- he is the sole owner of
15 one of the companies that was mentioned, Pilatus Bank. And
16 they're working on starting a branch in London. He's been --
17 that's -- he's been devoting his time there. What else is in
18 London? His wife and his two children -- a two-year old and a
19 toddler. So that's why he's been spending a lot of time in
20 London over the last five months. Prior to that, he was
21 spending a lot more time here in the United States.

22 THE COURT: And do they reside in London or were
23 they just hanging out there while the DC house was being
24 renovated?

25 MR. BAUER: Exactly. They've been renting month to

1 month in London while the DC house is being renovated and
2 while he was starting this branch in London. I will tell you,
3 it's not untrue that this Malta bank -- Malta-based bank, the
4 assets have been frozen. It's likely about to be wound down.
5 That branch in London is not going to happen anymore. They
6 have no reason to be in London anymore. In fact, his wife and
7 children are coming here to the United States on Saturday.
8 There's no return trip scheduled. They're going to be here in
9 the United States.

10 So they just have the travel wrong. They have the
11 immigration wrong, they have the travel wrong. And without
12 the documents we're at a bit of a disadvantage here. But it's
13 going to be easily verifiable and I don't think it will be
14 very particularly fair to our client for he to be detained
15 based on a series of errors that have not been verified.

16 Your Honor, let's talk about the -- let's talk about
17 Mr. Sadr himself, and let's talk about his history and
18 character. I mean he, this weighs so in favor of release that
19 it's mind boggling that the Government uses this to the
20 opposite argument. Contrast him with Mr. Zarab who had no
21 ties whatsoever to the United States. Mr. Sadr -- and they're
22 here. His mother is a U.S. citizen, lives in the Washington
23 area. His two sisters are green card holders. They live in
24 California. He has other family, his grandmother. They all
25 live here in the United States. His wife and his children --

1 his children are U.S. citizens. They're going to be here in
2 the United States. He has significant ties here to the U.S.,
3 Your Honor.

4 Like I said, he went to college here. He owns his
5 apartment in here. It's the only apartment that he owns, it's
6 here in Georgetown. And to the extent that the evidence in
7 this case is that Mr. Sadr was hiding his identity in this web
8 of shell companies the Government's alleging, he openly
9 withdrew two million dollars from -- of the proceeds from this
10 alleged scheme and bought this apartment in Georgetown in his
11 own name. He also, I mean, as Mr. Laroche said, he actually
12 even -- he opened one of these shell companies in his own
13 name. There was no -- he was hiding in plain view, Your
14 Honor. There was no hiding. It was open and transparent.

15 He also, Your Honor, he has no criminal history, he
16 has no physical impairments, he has this huge support system
17 here in the United States. And we'll get to the financials,
18 but what I would tell you is that we have lined up the
19 possibility of dozens of people that are here ready to support
20 him either by signing a bond or otherwise supporting the fact
21 that he will reside here.

22 To the issue of where he might flee. It's important
23 to note, so he -- so we talked about the -- the Government
24 talked about the UAE, talked about Turkey, talked about Iran
25 as possible places for him to go.

1 THE COURT: And don't forget Nevis.

2 MR. BAUER: And Nevis. But I am telling you, Your
3 Honor, that there is an extradition treaty and we'd be happy
4 to share information with that -- about that treaty with you,
5 as of course, you know, they had to have this apartment in
6 London they've been renting, but obviously there's an
7 extradition treaty with the UK.

8 Iran --

9 THE COURT: I don't think the Government's worried
10 that he's going to flee to London.

11 MR. BAUER: I don't know what the Government's
12 worried about right now, Your Honor. They've gotten all their
13 immigration information wrong. So who knows. What -- Judge,
14 what we have here is in --

15 THE COURT: With regard to the immigration status --
16 forgive me for interrupting.

17 MR. BAUER: Sure.

18 THE COURT: But assuming that what you are telling
19 me turns out to be correct, which is that your client is a
20 green card holder with no legitimate order of deportation or
21 the equivalent against him. He still, upon conviction, should
22 he be convicted of this crime, would be subject to
23 deportation, correct?

24 MR. BAUER: Yes, Your Honor.

25 THE COURT: All right. So doesn't that give someone

1 in his situation a significant motivation to skip the whole
2 conviction and imprisonment part of the story and simply self-
3 deport ahead of that?

4 MR. BAUER: Well, Your Honor, as you -- as we were
5 discussing, he has significant assets here in the United
6 States. He also has significant family ties that he would be
7 leaving behind. There's a case out of --

8 THE COURT: Presumably they have passports as well,
9 his wife and children?

10 MR. BAUER: And if it was something that was
11 appealing to Your Honor in order to be comfortable with his
12 release they would be willing to surrender their passports as
13 well. Because there's no mistake here that Mr. Sadr is
14 staying here and willing to fight.

15 The Government talked about the weight of the
16 evidence here, Your Honor. The weight of the evidence --
17 there are emails, no doubt. But there is no -- there is
18 literally no evidence, nothing in the indictment, either A,
19 connecting him to Iran, but also that he knew that what he was
20 doing as a non-U.S. citizen violated the law here in the
21 United States. So we have a very strong defense, Your Honor.
22 These cases are --

23 THE COURT: So you're suggesting to me that your
24 defense may be that he did those things, but did not
25 understand that the U.S. sanctions applied to him because he

1 was not a U.S. citizen?

2 MR. BAUER: Well because he's -- right. And that --
3 and that --

4 THE COURT: He was merely a green card holder?

5 MR. BAUER: And that -- and that simply doing a
6 transaction in U.S. dollars triggers the -- triggers U.S.
7 sanctions. There are -- there's just simply no evidence to
8 suggest otherwise. These are complicated cases, Your Honor.
9 The law is complicated. I'll point you to a case that --
10 which one of our partners handled. Another Iranian sanctions
11 case here in the SDNY in 2010, it's the Bankee [Ph.] case,
12 where the defendant was convicted. After trial, served 22
13 months in jail only to have his conviction reversed by the 2nd
14 Circuit because of a misreading by Judge Keenan of the law.
15 And after those 22 months were served he was -- the one
16 conviction that stood was a 1001 charge.

17 Judge Englemayer resentenced him and at the
18 resentencing said that conviction should have resulted in only
19 in a \$10,000 fine, not 22 months of wrongful imprisonment.
20 This is a -- these are complicated cases and he has every
21 intent to fight it because we have viable defenses here. So,
22 you ask -- you ask why he wouldn't just skip it. Because he
23 doesn't have a life outside of the United States.

24 Now -- especially now that Malta -- his Malta bank
25 has been frozen, his family is going to be here, and all of --

1 and his biggest asset, his apartment will be here. Guilty by
2 association with his father, the Bill Gates of Iran, that's
3 not fair, Your Honor. He is -- Mr. Sadr's father remains in
4 Iran, simply because, as I told you, if he were to leave for
5 more than 10 days he would have to forfeit --

6 THE COURT: He would forfeit his assets.

7 MR. BAUER: Right. Your Honor, in order to travel
8 to the UAE, he needs a visa. He doesn't have a UAE visa. So
9 for him to -- so it's actually not a viable place for him to
10 escape and hide for the rest of his life. UAE is off the
11 table. Turkey, he -- his in-laws live in Turkey, admittedly,
12 but as I said, if his wife and his kids are here, and their
13 passports are surrendered, there's really nothing -- there's
14 nothing for him in Turkey.

15 And Iran, let me tell you this last piece, Your
16 Honor, which is after the most recent series of political
17 unrest in Iran, the riots and other arrests that have
18 happened, and that's happened since he's last been to Iran,
19 he's -- he might be arrested, Your Honor. He actually is the
20 type of person who is actually in danger if he goes to Iran.
21 He's not fleeing to Iran. There are no places for him --

22 THE COURT: Why would he be arrested?

23 MR. BAUER: Right, Your Honor. It's part of the
24 political -- the political battle there is that they're
25 viewing outsiders -- Iranians who have moved abroad and have

1 done business abroad, that they're supporting the uprising in
2 Iran. So people similarly situated to Mr. Sadr who have
3 returned have been arrested. So he fits the profile of
4 somebody who might be arrested. And in fact, Your Honor,
5 we've spoken to a number of experts who agree and are willing
6 to draft affidavits in support of this concept that he is
7 actually in danger of going to Iran.

8 I'm sorry, Your Honor.

9 [Pause in Proceedings.]

10 MR. BAUER: I'm sorry. And Mr. Sadr reminds me that
11 the other reason that he fits the profile is that he is a dual
12 citizen, an Iranian and the prevailing powers --

13 THE COURT: But not of the United States?

14 MR. BAUER: No. But of St. Kitts and in Iran, that
15 is viewed as somebody who could be a spy or working for a
16 government other than Iran. And so, again, the profile as to
17 why he might be in danger. There's no way he's going to Iran.
18 There's no way he can go to UAE. And anything that could
19 possibly be in Turkey will be here in the United States. So
20 you ask of incentives. The incentives are for him to stay.
21 His incentives are to fight. And to fight and to win this
22 case just like Mr. Bankee would have had the proper jury
23 instructions and the understanding of the law been made back
24 in --

25 THE COURT: I understand your --

1 MR. BAUER: -- 2010.

2 THE COURT: -- interested in cases that are not the
3 case in my court room this evening. But I'm considerably less
4 interested in those other cases.

5 MR. BAUER: Okay, Your Honor. That's fine, Your
6 Honor. I -- listen, I think that precedent is obviously
7 important in cases like this, but I understand the facts. The
8 facts here are prohibitive. But they are -- the facts here
9 are also the facts that support -- support release. I mean,
10 we have --

11 THE COURT: All right. Do you have -- do you have a
12 proposal?

13 MR. BAUER: We do, Your Honor.

14 THE COURT: Okay.

15 MR. BAUER: We do. We propose a bond of 10 million
16 dollars to be secured by property or the cash equivalent of
17 approximately 2 million dollars. His apartment in Georgetown
18 in DC is valued at approximately 2 million dollars and his
19 mother is willing to put up her apartment, which is in
20 Bethesda and that is worth approximately \$250,000 so we'd be -
21 - both of them are willing to pledge those properties.
22 Although we would like -- we would like to have the option of
23 pledging either of those properties or the 2.25 million
24 dollars in cash.

25 THE COURT: The mom's property in Bethesda is worth

1 250,000?

2 MR. BAUER: Exactly.

3 THE COURT: In Bethesda?

4 MR. BAUER: In Bethesda, yes.

5 THE COURT: It must be an efficiency.

6 MR. BAUER: It's an apartment, Your Honor.

7 THE COURT: Okay.

8 MR. BAUER: We propose that it be also secured by
9 the signature of four other financially responsible people.
10 Two of them are here today, Your Honor. Sister and family
11 friend. And those people could be interviewed and vetted by
12 the U.S. Attorney's office. We will follow the pretrial's
13 recommendation which is just a regular pretrial supervision,
14 but I will -- I'll play my hand a little bit, Your Honor, and
15 say that if you're inclined to release him that we would be
16 amenable to electronic monitoring.

17 There is an issue that we want -- that I also want
18 to address, which is passports. As we said, he has two
19 passports. The fact that he has -- that he may or may not --
20 we don't think it's true, but if he had a Belarus passport, he
21 doesn't have -- it's not -- he doesn't have one now. So
22 there's two passports at issue. One is St. Kitts. That was
23 seized upon his arrest. The other is his Iranian passport. I
24 will tell you that was not seized upon his arrest.

25 He actually did not know where it was at the time of

1 his arrest. Luckily, we've located it. It was in London with
2 his wife. His wife, as I told you, is planning on coming to
3 the United States on Saturday --

4 THE COURT: What passport was he traveling on when
5 he came here?

6 MR. BAUER: The St. Kitts' passport. And when he --
7 and she can bring the passport. But she's also willing to
8 bring it to the embassy tomorrow in London if that will
9 expedite his removal.

10 THE COURT: And the defendant would live where?
11 With his mom in Bethesda?

12 MR. BAUER: Well we would propose that he would live
13 in his apartment in Georgetown with -- with his --

14 THE COURT: Has it -- have the renovations been
15 completed?

16 MR. BAUER: Yes, they have, Your Honor. And that
17 his wife and children live there as well. And his mother will
18 live nearby in Bethesda. And the mother is willing to check
19 in on him as much as Your Honor would want. She wishes she
20 could even live there, although, it's a 2,000 square foot
21 apartment. I think his wife might vote against having her
22 mother-in-law there. But we'll allow -- she'll do it, again,
23 if it gives you that comfort.

24 THE COURT: And that's the 1015 33rd Street?

25 MR. BAUER: Yes, Your Honor.

1 THE COURT: Which is around N Street, Northwest.

2 UNIDENTIFIED SPEAKER: M and [inaudible] --

3 THE COURT: I grew up there. Go ahead.

4 MR. BAUER: Okay. Travel will be restricted to the
5 Southern and Eastern districts of New York as well as the
6 District of Columbia and the Eastern district of Virginia.

7 THE COURT: Would the defendant be willing to pay
8 for his supervision and electronic monitoring?

9 MR. BAUER: Yes, Your Honor. But that, again is --

10 THE COURT: It --

11 MR. BAUER: -- I don't know --

12 THE COURT: -- can get pricey.

13 MR. BAUER: Again, it's not our proposal, but the
14 answer is we'll do whatever is necessary --

15 THE COURT: Okay.

16 MR. BAUER: -- in order for him to be out and defend
17 himself --

18 THE COURT: And let me have the --

19 MR. BAUER: -- in this case.

20 THE COURT: -- Government's response.

21 MR. BAUER: Sorry, Judge, just one more --

22 THE COURT: Go ahead.

23 MR. BAUER: -- one more term of his release, and
24 that is that the ICE detainer be lifted. The last thing we'd
25 want, as you say today --

1 THE COURT: I can't --

2 MR. BAUER: No, I'm not saying --

3 THE COURT: -- lift an ICE detainer.

4 MR. BAUER: -- that you would order that it be
5 lifted. That it be lifted by ICE.

6 THE COURT: I'm not -- what are you saying?

7 MR. BAUER: I'm saying, Judge, that it -- let's say
8 that you said he could walk out the door today, that wouldn't
9 happen. He would, because of this detainer, he would --

10 THE COURT: I have no control over the ICE detainer.

11 MR. BAUER: Your Honor, I'm not suggesting that you
12 do. What I'm suggesting, what I'm asking is that one of the
13 terms that needs to be satisfied before he be released --

14 THE COURT: Oh, I see.

15 MR. BAUER: -- is that ICE lift the detainer. And
16 that we're going to work with the Government after today to
17 have it lifted as expeditiously as possible. We don't want
18 him --

19 THE COURT: So he would remain in custody until a
20 number of conditions are satisfied including presumably the
21 setup of the apartment, the pledging of the property, the
22 electronic monitoring, the cosigners, and the lifting of the
23 ICE detainer?

24 MR. BAUER: We did not propose that the property be
25 pledged before he be released, but that was the recommendation

1 of pretrial services.

2 THE COURT: All right.

3 MR. BAUER: Thank you, Your Honor.

4 MR. LAROCHE: Your Honor, it's hard to imagine a
5 bigger flight risk in this case in a package that is just so
6 inadequate based on this defendant's assets and assets that he
7 hasn't disclosed to the Court. First off, just the apartment,
8 a 2 million dollar apartment that has actually been up for
9 sale by the defendant and would otherwise be subject to
10 forfeiture in this case. So he is really essentially putting
11 up his mother's home.

12 And that he's proposed four cosigners only two of
13 which he's identified to the Court today. That is simply not
14 a package for an individual like the defendant who has access
15 to multiple passports, who has traveled across the world, who
16 has a father who is one of the richest people in Iran.

17 THE COURT: What do you think would put the fear of
18 God into him?

19 MR. LAROCHE: I don't think there's anything that
20 would, Your Honor. I think that he is going to flee if he is
21 --

22 THE COURT: Then why are we talking about adequacy?
23 That's not really your argument.

24 MR. LAROCHE: No, it's not, Your Honor. I just
25 think that this package --

1 THE COURT: If the defendant offered 10 million,
2 that wouldn't do it in your book, right?

3 MR. LAROCHE: Well clearly, no. But I think that
4 this package is just so inadequate compared to what his assets
5 are. I think it's --

6 THE COURT: What are his assets?

7 MR. LAROCHE: So we don't know because he hasn't
8 disclosed them. But we do know, Your Honor, we do know that
9 he has hidden a number of companies that we went through a
10 second ago from -- that are registered in Hong Kong, Austria,
11 other locations that he just simply hasn't disclosed.

12 The only thing he has disclosed to the Court are
13 stuff that is in the indictment, that has been specifically
14 identified property, and Pilatus Bank which has been in the
15 news. So he knew that he had to disclose those things. And
16 again, he misrepresented to the Court that he resides in
17 Washington. He doesn't. He has -- he's been -- he travels
18 across the world. There are simply no basis to believe that
19 he is going to be truthful with the Court and arrive for court
20 appearances.

21 And if I could add one more point to the immigration
22 issue, I think it's interesting the defense counsel is
23 essentially admitted that in his asylum application he
24 permitted his lawyer to submit a fraudulent application. And
25 this isn't a defendant who has not --

1 THE COURT: I'm not sure he would characterize it
2 that way.

3 MR. LAROCHE: Well he would say that there was a
4 fraudulent application submitted on his behalf and he had to
5 voluntarily leave the country. And this isn't an individual
6 who is not sophisticated. He has a Cornell education and I
7 just think it is interesting that there was a fraudulent
8 application submitted for him for asylum --

9 MR. BAUER: Your Honor, that's not what I'm saying.

10 THE COURT: One at a time --

11 MR. BAUER: Sorry.

12 THE COURT: -- counsel.

13 MR. LAROCHE: Whatever happened, he was -- his
14 asylum application was revoked and he had to voluntarily leave
15 the country. And what I heard from defense counsel -- perhaps
16 he's going to clarify -- was that there was something wrong
17 with that application because of something fraudulent that the
18 attorney did or had been doing that the defendant -- that was
19 submitted on the defendant's behalf and he had to voluntarily
20 leave the country.

21 So I just think it's interesting and consistent with
22 what we see not just in his immigration issues, but also with
23 the conduct in this case in setting up shell companies to
24 engage in fraudulent conduct that there's simply no way the
25 Court can be assured that he's going to appear for court based

1 on this package that's been proposed by defense counsel.

2 MR. BAUER: Your Honor, if I may, just a couple of
3 things. I -- what I said is that the application was tainted
4 by what appears to have been a fraudulent attorney. I don't
5 know so I'm not going to represent one way or the other
6 whether the application itself was fraudulent. I beg a reason
7 to think that it wasn't. But, again, I don't -- I don't know.
8 It was tainted by a fraudulent attorney. Second of all, those
9 companies -- the companies in Hong Kong and elsewhere that the
10 Government referred to originally, those are old companies
11 that have been closed. Their information is old. This case
12 and the conduct is from 2011 on.

13 So it -- he didn't disclose to pretrial companies in
14 Hong Kong that have been closed and defunct since 2010.
15 There's no evidence that he misrepresented to Your Honor. He
16 is the -- old conduct was not called for and I just want you
17 to -- I'm sorry. Old companies and old assets. That's not
18 what was asked for by pretrial. So to say that our client
19 misrepresented himself to pretrial and to the Court is just
20 not fair.

21 THE COURT: Anything further from the defendant?

22 MR. BAUER: Your Honor, just on the question --
23 sorry, Your Honor, I just want one thing here. Your Honor, on
24 the question of funds and the adequacy of our proposal, I will
25 note that if there is a dollar figure that would make you more

1 comfortable than what we proposed, that we would be amenable
2 to it. I think this is more than adequate given all of the
3 other factors here.

4 THE COURT: Well -- what's adequate? If I were
5 inclined to order release on condition of a certain bond or
6 secured by a certain amount, adequacy in that context, as you
7 know it, is a relative term.

8 MR. BAUER: Right.

9 THE COURT: In federal court, the purpose of the
10 bond is to assure the defendant's return. Not to make it
11 impossible for the defendant to pay it. So it has to be high
12 enough so that it would hurt a lot to lose it, but not so high
13 that it can't be met. I don't know what that number is.

14 MR. BAUER: Well let -- can I amend my number
15 because I actually think that the Government made a good
16 point. Which is that his apartment is forgettable property.
17 So he might view that as gone anyway. That's a fair point to
18 make. Not conceding that we're going to lose and that we're
19 going to have to forfeit anything, but I think it's a good
20 point. And so he does have other assets, so if you could just
21 give me one moment to talk to my client about what else we can
22 add to the package --

23 THE COURT: Sure.

24 MR. BAUER: -- I think if we --

25 Thank you, Your Honor.

1 [Pause in Proceedings.]

2 MR. BAUER: All right. Your Honor?

3 THE COURT: Yes, I am listening to you.

4 MR. BAUER: Your Honor, just one clarification on
5 the Hong Kong, I think I misunderstood what my client had
6 said. The Hong Kong company -- the holding company for the
7 Malta bank. The other companies he referenced were -- had
8 been closed and were --

9 THE COURT: But Hong Kong --

10 MR. BAUER: -- defunct.

11 THE COURT: -- is still in existence?

12 MR. BAUER: Right. But it's associated with Malta,
13 so he did effectively disclose it to pretrial. So I'm sorry -
14 -

15 THE COURT: They may not see it that way.

16 MR. BAUER: Okay. Well I -- I certainly think that
17 he was not trying to hide anything here. Your Honor, we've
18 spoken to a number of family and family friends about their
19 willingness to put up their property in order to secure his
20 appearance. And so rather than he pledge his apartment, and
21 we're happy to pledge his apartment as well if that's -- if
22 you think that's appropriate.

23 We would propose that two million dollars of
24 property from other individuals with more suasion over the
25 client secure the bond as well as one million dollars of cash

1 from the client. And that million dollars we -- we'll be
2 happy to talk with the Government as to the source of that
3 million dollars. But I'm confident that it's not part of this
4 scheme and so therefore would not be tainted and not be
5 something that would be subject to forfeiture.

6 So in other words, what I'm saying is, I had
7 offered, besides the mother's apartment, a two million dollar
8 apartment in the defendant's name that was taken from proceeds
9 of this alleged scheme.

10 THE COURT: So for example, an apartment belonging
11 to a sister or other relative?

12 MR. BAUER: Exactly. Or a family -- or a close
13 family friend. And, you know, we -- I'm just trying to make
14 the numbers match up. We, you know, we have the dollars -- we
15 have the value of a number of their family friend's houses
16 here. And so what I'm recommending is that we work with the
17 Government to find something as close to two million dollars
18 with properties of family or close friends.

19 THE COURT: So your proposal is a ten million dollar
20 bond secured by two million in property acceptable to the
21 Government --

22 MR. BAUER: That's a good way of saying it, yes.

23 THE COURT: -- that is not forgettable. And the
24 million dollars in case from a non-forgettable source
25 controlled by the defendant himself?

1 MR. BAUER: Yes, Your Honor.

2 THE COURT: That's the proposal?

3 MR. BAUER: Plus his mother's apartment because --

4 THE COURT: Plus his --

5 MR. BAUER: -- [inaudible] --

6 THE COURT: -- mother's apartment?

7 MR. BAUER: -- because I think that's tremendous
8 moral suasion there that he leave his mother homeless should
9 he flee.

10 MR. LAROCHE: Just one more note. I mean, all of a
11 sudden there's now a million dollars in cash --

12 THE COURT: I did notice that, yes.

13 MR. LAROCHE: -- that defendant's going to put up.
14 It's not reported here. And this is --

15 MR. BAUER: Of course it is.

16 MR. LAROCHE: -- another --

17 MR. BAUER: Of course it is, Your Honor.

18 THE COURT: Counsel --

19 MR. BAUER: It's right here.

20 THE COURT: -- you really have to wait your turn.

21 MR. BAUER: Sorry.

22 THE COURT: Unless, of course --

23 MR. LAROCHE: Your Honor --

24 THE COURT: -- Mr. Laroche is done, in which case it
25 will be his turn.

1 MR. LAROCHE: Your Honor, unless I'm missing
2 something, I'm not seeing a million dollars reported here from
3 the defendant that has just been proposed and I think it's
4 another example of the defendant not reporting the true level
5 of his assets. And that's concerning.

6 THE COURT: Well the assets reported initially in
7 Virginia add up to a million six. And that includes
8 substantially, you know, most of that is the residence. So it
9 does not appear to have been disclosed, at least initially.

10 MR. BAUER: So it has, Your Honor.

11 THE COURT: I understand there was some additional
12 disclosures made here in New York.

13 MR. BAUER: If you -- the bottom of page one.
14 Defendant reported to the Eastern District of Virginia,
15 additional business accounts in Cypress which generate
16 approximately two million to three million dollars per year,
17 omitted from original bail report. It was, and we saw the
18 original notes from the Eastern District of Virginia pretrial
19 services officer, he or she had them in their notes, and for
20 whatever reason didn't put it in their report. He's not --
21 we're not --

22 THE COURT: Now what --

23 MR. BAUER: -- hiding --

24 THE COURT: -- are these additional business
25 accounts in Cypress that generate so much money?

1 MR. BAUER: One is a personal account, Your Honor.

2 And one is a --

3 THE COURT: That generates --

4 MR. BAUER: Well --

5 THE COURT: -- two to three million dollars?

6 MR. BAUER: -- well I -- we --

7 THE COURT: Or is that the principal?

8 MR. BAUER: We didn't use the word generate, that
9 was the pretrial officer.

10 THE COURT: That's why I'm asking.

11 MR. BAUER: Their holdings. So what it is is half
12 of it, or give or take, is his personal money, the other half
13 is in a business in which he's looking to build a four story
14 building in Cypress. So it's a real estate development
15 company.

16 THE COURT: All right.

17 MR. BAUER: I'm sorry. And that money -- well, I'll
18 just say it's not money that was generated from this alleged
19 scheme.

20 THE COURT: All right. We're going to have to bring
21 this to a close.

22 MR. BAUER: I'm done, then, Your Honor.

23 THE COURT: Thirty seconds.

24 MR. LAROCHE: I just think it's very troubling that
25 it appears that the defendant is now using his wealth in

1 finding additional funds when he knows that he needs to
2 present more of a package to the Court when it appears that he
3 has clearly not been forthcoming with the full scope of his
4 assets to the Court. And I think that's very troubling.
5 Another factor that the Court could -- should consider when
6 determining whether or not this defendant is going to show up,
7 these misrepresentation just suggest that he won't.

8 THE COURT: All right. Thank you very much. I
9 would like to speak with pretrial if you can indulge me for a
10 few minutes. So we'll take a quick break. And then I will be
11 back.

12 MR. BAUER: Thank you, Your Honor.

13 THE COURT: Be seated.

14 [Off the record]

15 [On the record]

16 THE COURT: All right. Ladies and gentlemen, thank
17 you very much for your patience. I know it's late in the
18 evening. And thank you to the U.S. Attorney's Office and to
19 the defendant's counsel for their very helpful presentations.
20 It's always difficult to make bail determinations within the
21 compressed time that we have to do so at an initial
22 presentment and often on inadequate information one way or the
23 other.

24 In this case, I have considered all of the
25 information that I do have access to. The pretrial services

1 report, the supplement thereto, the information that has been
2 presented to me this evening by counsel. And taking all of
3 that into account, I find that the Government has established
4 by preponderance of the evidence that you are a flight risk,
5 sir. And that has been the basis on which this application
6 has been argued.

7 So I will address the flight risk factors rather
8 than the danger factors. The offense is a serious one and the
9 offense is a serious one regardless of whether the motivation
10 was to allegedly -- to assist the government of Iran or some
11 political subdivision within Iran, or to assist private
12 business or family interests within Iran. It is still the
13 same felony. The weight of the evidence, according to the
14 Government, is strong. They have significant documentary
15 evidence including emails. The defendant argues that he has
16 viable defenses notwithstanding the exact same emails because
17 the defendant did not understand that as a non-U.S. citizen he
18 was subject to the same standards that would govern a U.S.
19 citizen engaging in the same financial transaction.

20 It is far too early to make a legal determination as
21 to who may have the better end of that argument. So I would
22 say that that particular factor does not weigh heavily one way
23 or the other at this stage of the case. However, the
24 defendant's personal history and characteristics as well as
25 his -- his financial circumstances do make it very difficult

1 for me to come up with any package that reasonably assures, in
2 my mind, his presence in Court here in the United States to
3 face these charges when he needs to be here.

4 He holds multiple citizenship, not any one of which
5 is a United States citizenship. He holds multiple passports.
6 At least two, possibly three. He wasn't sure where one of
7 them was for the past couple of days. He has significant
8 family ties abroad. He has ties here, to be sure, but he also
9 has significant family ties abroad in Turkey, in Iran, in
10 Cypress. He has business ties abroad in those countries and
11 in other countries, including Hong Kong. He is a frequent and
12 sophisticated business traveler. And he has access to
13 significant financial resources. So much so that the original
14 offer of a two million dollar pledge has increased over the
15 course of our conversations this evening and I cannot assure
16 myself that that amount or any other particular amount is to
17 quote myself earlier this evening, enough to sting.

18 Because I don't know what else he has and whether
19 one million or two million or three million would be enough to
20 make him think twice before departing the country. Regardless
21 of what his immigration status actually is, and it appears to
22 be murky. The circumstances of the detainer appear to be
23 murky this evening. The one thing which is clear is that he
24 is not a United States citizen. At best he is a green card
25 holder who does not have a current immigration detainer or

1 will not shortly have a current immigration detainer against
2 him. And that, in and of itself is not favorable to him
3 because it means that should he be convicted on this crime, he
4 will be facing serious prison time followed by deportation
5 which does provide a powerful incentive, in my view, to skip
6 the crime and punishment part of the narrative and just go
7 straight to the self deportation.

8 His wife and children are U.S. citizens. I
9 understand that. But they are also highly mobile. In fact,
10 they're not even here now. So the fact that they have U.S.
11 citizenship, and an apartment in Washington, D.C. does not
12 give me sufficient comfort. So for all of these reasons, I
13 will detain you, Mr. Sadr, this afternoon -- this evening, I
14 should say. I have considered alternatives to incarceration
15 including a high bond package but for the reasons I have
16 previously articulated, that does not give me sufficient
17 reasonable assurance that you will remain here to face these
18 charges. I have also considered various forms of electronic
19 monitoring but unfortunately, in the real world, those devices
20 are not as effective as they may look like on TV. Particular
21 for people who may have access to non commercial airline
22 flight. So you will be detained, sir.

23 This, of course, does not mean that you can't enter
24 into additional communications and negotiations with the
25 Government. It may be that you can come to some understanding

1 in the days and weeks to come. But for tonight, you will be
2 detained. Is there anything further from the Government?

3 MR. LAROCHE: No, Your Honor.

4 THE COURT: Anything further from the defense?

5 MR. BAUER: No, Your Honor.

6 THE COURT: Thank you, ladies and gentlemen.

7 MR. LAROCHE: Thank you, Judge.

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1 I certify that the foregoing is a court transcript
2 from an electronic sound recording of the proceedings in the
3 above-entitled matter.

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7 Shari Riemer, CET-805

8 Dated: April 1, 2018
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